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8
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of

11 **THOMAS LEACH,**

12 Holder of License No. S013645
As a Pharmacist
13 In the State of Arizona

Board Case No. 11-0032-PHR

**CONSENT AGREEMENT
FOR CIVIL PENALTY AND
CONTINUING EDUCATION**

14
15 In the interest of a prompt and judicious settlement of this case, consistent
16 with the public interest, statutory requirements and the responsibilities of the
17 Arizona State Board of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Thomas
18 Leach ("Respondent"), holder of Pharmacist License Number S013645 in the State of
19 Arizona, and the Board enter into the following Recitals, Findings of Fact,
20 Conclusions of Law and Order ("Consent Agreement") as a final disposition of this
21 matter.

22 **RECITALS**

23 1. Respondent has read and understands this Consent Agreement and has
24 had the opportunity to discuss this Consent Agreement with an attorney, or has
25 waived the opportunity to discuss this Consent Agreement with an attorney.
26

1 2. Respondent understands that he has a right to a public administrative
2 hearing concerning this matter at which hearing he could present evidence and cross
3 examine witnesses. By entering into this Consent Agreement, Respondent
4 knowingly and voluntarily relinquishes all right to such an administrative hearing, as
5 well as rights of rehearing, review, reconsideration, appeal, judicial review or any
6 other administrative and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against
11 him.

12 5. Respondent understands this Consent Agreement deals with Board
13 Complaint No. 3880 involving allegations of unprofessional conduct against
14 Respondent. The investigation into these allegations against Respondent shall be
15 concluded upon the Board's adoption of this Consent Agreement.

16 6. Respondent understands that this Consent Agreement does not
17 constitute a dismissal or resolution of any other matters currently pending before the
18 Board, if any, and does not constitute any waiver, express or implied, of the Board's
19 statutory authority or jurisdiction regarding any other pending or future
20 investigation, action or proceeding.

21 7. Respondent also understands that acceptance of this Consent
22 Agreement does not preclude any other agency, subdivision, or officer of this State
23 from instituting any other civil or criminal proceedings with respect to the conduct
24 that is the subject of this Consent Agreement.

1 8. Respondent acknowledges and agrees that, upon signing this Consent
2 Agreement and returning this document to the Board's Executive Director, he may
3 not revoke his acceptance of the Consent Agreement or make any modifications to
4 the document regardless of whether the Consent Agreement has been signed by the
5 Executive Director. Any modification to this original document is ineffective and
6 void unless mutually agreed by the parties in writing.

7 9. This Consent Agreement is subject to the approval of the Board and is
8 effective only when accepted by the Board and signed by the Executive Director. In
9 the event that the Board does not approve this Consent Agreement, it is withdrawn
10 and shall be of no evidentiary value and shall not be relied upon nor introduced in
11 any action by any party, except that the parties agree that should the Board reject
12 this Consent Agreement and this case proceeds to hearing, Respondent shall assert
13 no claim that the Board was prejudiced by its review and discussion of this
14 document or any records relating thereto.

15 10. If a court of competent jurisdiction rules that any part of this Consent
16 Agreement is void or otherwise unenforceable, the remainder of the Consent
17 Agreement shall remain in full force and effect.

18 11. Respondent understands that this Consent Agreement is a public record
19 that may be publicly disseminated as a formal action of the Board and may be
20 reported as required by law to the National Practitioner Data Bank and the
21 Healthcare Integrity and Protection Data Bank.

22 12. Respondent understands that any violation of this Consent Agreement
23 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§
24 32-1901.01(B)(20), -1927(A)(1).

1 13. Respondent agrees that the Board will adopt the following Findings of
2 Fact, Conclusions of Law and Order.

3 ...

4 ...

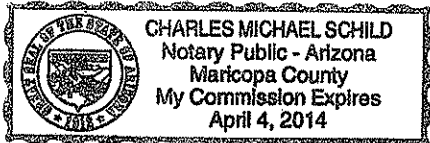
5 ...

6 ACCEPTED AND AGREED BY RESPONDENT

7 Thomas Leach
8 Thomas Leach

Dated: 1/11/11

9 Subscribed and sworn to before me in the County of Maricopa, State of Arizona,
10 this 11th day of January, 2010, by Thomas Leach.



12 Charles Michael Schild
13 NOTARY PUBLIC

14 My Commission expires: April 4th 2014

15 FINDINGS OF FACT

16 1. The Board is the duly constituted authority for licensing and regulating
17 the practice of pharmacy in the State of Arizona.

18 2. Respondent is the holder of license number S013645 to practice as a
19 pharmacist in the State of Arizona.

20 3. During all relevant times to these findings, Respondent worked as the
21 pharmacist in charge at CVS Pharmacy #5814 (the "Pharmacy") in Mesa, Arizona.

22 4. In June 2010, a prescription for Topamax 50 mg was dropped off at the
23 Pharmacy. When the prescription was filled, lorazepam 1 mg tablets were
24 inadvertently mixed in with the topiramate (generic Topamax) 50 mg tablets in the
25
26

1 prescription vial. The prescription was picked up by the patient, and the patient
2 took some of the lorazepam.

3 5. Respondent was the dispensing pharmacist.
4
5 ...
6 ...

7 CONCLUSIONS OF LAW

8 1. The Board possesses jurisdiction over the subject matter and over
9 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

10 2. The Board may discipline a pharmacist who has engaged in
11 unprofessional conduct. A.R.S. § 32-1927(A)(1).

12 3. The conduct and circumstances described above constitutes
13 unprofessional conduct pursuant to A.R.S. § 32-1901.01(B)(2) (Violating any federal
14 or state law, rule or regulation relating to the manufacture or distribution of drugs
15 and devices or the practice of pharmacy).

16 4. The conduct described above violated Arizona Administrative Code R4-
17 23- 402(A)(11) (In dispensing a prescription medication from a prescription order, a
18 pharmacist shall make a final accuracy check on the completed prescription
19 medication).

20 ORDER

21 Based upon the above Findings of Fact and Conclusions of Law, IT IS
22 HEREBY ORDERED THAT Respondent shall:

23 1. Pay a civil penalty of \$1,000.00 within **90 days** of the effective date of this
24 Order; and
25
26

1 2. Successfully complete and provide proof of successful completion to the
2 Board of six (6) contact hours (0.6 C.E.U.) of American Council on Pharmaceutical
3 Education course(s) on the topic of error prevention. The required course(s) must
4 be completed within **90 days** of the effective date of this Order, must be pre-
5 approved by Board staff, and shall be in addition to the requirements of A.R.S. § 32-
6 1936 and A.A.C. R4-23-204.

7 3. Respondent shall pay all costs associated with complying with this
8 Consent Agreement.

9 4. If Respondent violates this Order in any way or fails to fulfill the
10 requirements of this Order, the Board, after giving the Respondent notice and the
11 opportunity to be heard, may revoke, suspend or take other disciplinary actions
12 against Respondent's license. The issue at such a hearing will be limited solely to
13 whether this Order has been violated.

14
15 DATED this 28th day of January, 2011.

16
17 ARIZONA STATE BOARD OF
18 PHARMACY

19 (Seal)

20 By: 

21 HAL WAND, R.Ph.
22 Executive Director
23
24
25
26

1 ORIGINAL OF THE FORGOING FILED
this 28 day of JAN, 2011, with:

2 Arizona State Board of Pharmacy
3 1700 West Washington, Suite 250
4 Phoenix, Arizona 85007

5 EXECUTED COPY OF THE FOREGOING MAILED
BY CERTIFIED MAIL
this 28 day of JAN, 2011, to:

6 Thomas Leach
7 43492 N. Kenworthy Road
8 Queen Creek, Arizona 85140
Respondent

9 EXECUTED COPY OF THE FOREGOING MAILED
this 28 day of JAN, 2011, to:

10 Roger N Morris R.Ph.,J.D.
11 Quarles & Brady L.L.P.
12 2 North Central Avenue
13 Phoenix, Arizona 85004
Attorney for Respondent

14 Elizabeth A. Campbell
15 Assistant Attorney General
16 1275 W. Washington Street, CIV/LES
Phoenix, Arizona 85007
Attorney for the Board

17 TRIP
18 #1423177